

Appl. No. 09/889, 253  
Atty. Docket No. CM2006XM  
Amdt. dated 03/19/2004  
Reply to Office Action of 11/19/2003  
Customer No. 27752

### REMARKS

Claims 1-30 are pending in the present application. No additional claims fee is believed to be due. The Applicants have amended Claim 1, to more particularly point out and distinctly claim the subject matter that the Applicants regard as their invention. Specifically, the phrase "ATCC 14580" has been excised as it is merely an alternative form of nomenclature for identifying *Bacillus licheniformis*. In addition, the recitation of pectate lyases having an optimum activity at a pH of greater than about 7.0 that are derived from *Erwinia carotovora* has been eliminated from Claim 1. Support for these amendments is found throughout the specification and claims, as originally filed. Finally, the Applicants have amended Claims 8 and 30 to eliminate typographical errors.

No new matter has been added and no claims fees are believed to be due. The Applicants strongly believe that the present amendments and accompanying Remarks have placed the present application in condition for allowance. Accordingly, the Applicants respectfully request timely and favorable action.

### Rejection under 35 USC § 102(b) over Herbots

The Examiner has rejected Claims 1 to 8, 10 to 11, 21 to 24 and 26 to 30 under 35 USC § 102(b) as allegedly being anticipated by WO Patent Number 98/06808 to Herbots et al (hereinafter "Herbots"). The Applicants respectfully disagree with the Examiner's finding of anticipation. Indeed, the Applicants wish to direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended Claim 1, from which the balance of the aforementioned claims ultimately depend, only to obviate the Examiner's rejection. Specifically, the Applicants have amended Claim 1 to excise the recitation of a pectate lyase derived from *Erwinia carotovora*. In light of the present amendments, the Applicants respectfully submit that Herbots fails to teach each and every limitation of Claim 1, as amended. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to Claims 1 to 8, 10 to 11, 21 to 24 and 26 to 30 under 35 USC § 102(b).

In addition the Applicants would like to the Examiner to note that the lichenase taught by Herbots on page 13, lines 9-13 that is presumably derived from *Bacillus licheniformis* is a carbohydrase and not a pectate lyase.

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**Rejection under 35 USC § 103(a) over Herbots in view of Bostick**

The Examiner has rejected Claim 9 under 35 USC § 103(a) as allegedly obvious over Herbots in view of US Patent Number 5,334,326 to Bostick (hereinafter "Bostick"). The Applicants respectfully disagree with the Examiner's finding of obviousness. The Applicants wish to direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended Claim 1, from which Claim 9 ultimately depends, only to obviate the Examiner's rejection. In light of the present amendments, the Applicants submit that Herbots in view of Bostick neither teach nor suggest each and every element of present Claim 9, as amended. Specifically, the Applicants have removed the recitation of a pectate lyase derived from *Erwinia carotovora* from Claim 1. Accordingly, reconsideration and withdrawal of the rejection to Claim 9 under 35 USC § 103(a) are respectfully requested.

**Rejection under 35 USC § 103(a) over Herbots**

The Examiner has rejected Claim 25 under 35 USC § 103(a) as allegedly obvious over Herbots. The Applicants respectfully disagree with the Examiner's finding of obviousness. The Applicants wish to direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended Claim 1, from which Claim 25 ultimately depends, only to obviate the Examiner's rejection. In light of the present amendments, the Applicants respectfully submit and strongly urge that Herbots neither teaches nor suggests each and every limitation included in Claim 25, as amended. Specifically, the Applicants have amended Claim 1 to remove any recitation of a pectate lyase derived from *Erwinia carotovora*. Accordingly, reconsideration and withdrawal of the rejection to Claim 25 under 35 USC § 103(a) are respectfully requested.

**Rejection under 35 USC § 103(a) over Herbots in view of Miracle**

The Examiner has rejected Claims 12 to 20 under 35 USC § 103(a) as allegedly being unpatentable over Herbots in view of WO Patent Number 97/10323 to Miracle et al (hereinafter "Miracle"). The Applicants respectfully disagree with the Examiner's finding of obviousness. The Applicants wish to direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended Claim 1, from which Claims 12 to 20 ultimately depend, only to obviate the Examiner's rejection. In light of the present amendments, the Applicants submit that Herbots in view of Miracle neither teaches nor suggests each and every limitation of Claims 12 to 20, as amended. Specifically, the Applicants have amended Claim 1 to

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remove any recitation of pectate lyase derived from *Erwinia carotovora*. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to Claims 12 to 20 under 35 USC § 103(a).

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections. Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-30.

Respectfully submitted,

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